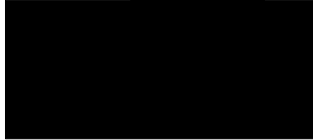




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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MPA - 206789

PRELIMINARY RECITALS

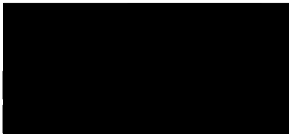
Pursuant to a petition filed on November 2, 2022, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on December 21, 2022, by telephone.

The issue for determination is whether the agency correctly approved with modification the Prior Authorization request for personal care worker services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By:

Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Beth Whitaker
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a 24 year old resident of Milwaukee County who resides with family.

2. Petitioner has a primary diagnosis of autistic disorder and secondary diagnoses of low cognition, rash, kyphosis and insomnia.
3. An August 2, 2022 Plan of Care was signed by physician Dr. Alyssa Mohorek.
4. On August 8, 2022, [REDACTED] with the provider Gracious Home Care Inc completed a personal care screening tool (PCST) for petitioner.
5. On September 13, 2022, Gracious Homecare Incorporated submitted a Prior Authorization request (PA) for personal care services in the amount of 168 15-minute units per week.
6. On October 12, 2022, the agency modified the request and approved up to 88 units per week.
7. On November 7, 2022, the Division received petitioner's request for hearing by U.S. Mail postmarked November 2, 2022.

DISCUSSION

Personal care services are “medically oriented activities related to assisting a recipient with activities of daily living necessary to maintain the recipient in his or her place of residence in the community.” Wis. Admin. Code §DHS 107.112(1)(a). Covered services include the following:

- 1.Assistance with bathing;
- 2.Assistance with getting in and out of bed;
- 3.Teeth, mouth, denture and hair care;
- 4.Assistance with mobility and ambulation including use of walker, cane or crutches;
- 5.Changing the recipient's bed and laundering the bed linens and the recipient's personal clothing;
- 6.Skin care excluding wound care;
- 7.Care of eyeglasses and hearing aids;
- 8.Assistance with dressing and undressing;
- 9.Toileting, including use and care of bedpan, urinal, commode or toilet;
- 10.Light cleaning in essential areas of the home used during personal care service activities;
- 11.Meal preparation, food purchasing and meal serving;
- 12.Simple transfers including bed to chair or wheelchair and reverse; and
- 13.Accompanying the recipient to obtain medical diagnosis and treatment.

Wis. Admin. Code, §DHS 107.112(b).

Personal care workers can spend no more than one-third of their time performing housekeeping activities. Like all medical assistance services, PCW services must be medically necessary and cost effective. Wis. Admin. Code, §DHS 107.02(3)(e)1 and 3.

The agency utilizes a Personal Care Screening Tool to consistently determine the number of hours required by each recipient. The screening tool allots a specific amount of time in each area the recipient requires help, which the agency's reviewer can then adjust to account for variables missing from the screening tool's calculations. The agency also now uses a Personal Care Activity Time Allocation Table to determine allotted times for PCW tasks, which it follows unless the request explains specifically why additional time is necessary.

In this case the difference between the total time requested and the time approved is 20 hours/week or about 2.86 hours per day. PCW services were approved but with modification to 88 units/week which is 22 hours per week or 3.143 hours per day.

The agency approved the full time requested by the provider for the ADLs bathing, grooming, toileting (280 minutes) and incontinence (210 minutes). This provides for toileting four times daily, and incontinence care twice daily. The provider did not request time for assistance with prosthetics, mobility, transferring.

The agency approved a reduced amount of time for dressing, 70 minutes for upper body dressing and 70 minutes for lower body dressing. A total of 280 minutes was requested. The agency provides for one change of clothing daily in addition to a change of clothing included in bathing assistance. Petitioner's mother [REDACTED] argued that petitioner requires multiple changes of clothing and that two changes are not enough because of petitioner's incontinence. She stated that petitioner wears a pull-up diaper but that it is not adequate to prevent her from soiling her clothes so extensively that it is necessary to change her clothes. This is not plausible. There are methods to manage incontinence including diapering to contain waste to avoid frequent change of clothing. The agency did approve all time requested for toileting and incontinence care. Other than incontinence, no other argument was made for additional dressing assistance.

The agency approved no time for eating assistance. The Plan of Care did not order care for eating assistance. There is no medical evidence that petitioner is unable to feed herself. Per DHS 107.02(2m)(a)(19), a physician's order or prescription is required for personal care services. [REDACTED] testified at hearing and asked for assistance with eating, citing the petitioner's autism and low cognition however she did not identify any physical barrier to petitioner feeding herself and did not offer credible evidence for a need for any hands-on assistance in that regard. She testified that petitioner makes a mess trying to feed herself. This does not justify personal care assistance if she is able to feed herself.

The provider requested 70 minutes per week for the Medically Oriented Task (MOT) of medication assistance and the agency approved none because the Plan of Care specifically excludes medication assistance, stating that "client and MD are responsible for management of medications." [REDACTED] testified credibly that petitioner doesn't know how to take her medication independently, however the provider does not provide that kind of assistance. Also, [REDACTED] stated that 1.5 hours per day is required for medication management, while the provider requested only ten minutes and the Plan of Care indicates only a need for "medication reminders." This significant difference is not explained.

The agency did approve time for assistance with some incidental to activities of daily living (IADLs). Meal preparation, cutting food, and serving were covered under incidental services. The agency found no medical evidence of behaviors justifying a 25 percent increase in time approved. I find no such evidence in this record

[REDACTED] testified that petitioner has eczema and requires cream and ointment to be applied to her skin two times per day. The physician did not order assistance for skin care in the Plan of Care and the provider did not document a need for assistance with skin care in the PCST. The petitioner's most recent medical notes show that on January 31, 2022, petitioner was seen by Dr. Mohorek for "rash" without unknown etiology. An April 19, 2021 note states that petitioner has had bilateral rash on her legs for one year. In January 2022, the physician noted that petitioner was being treated with cocoa butter and Dove sensitive skin. Application of these moisturizing products is appropriately included in grooming. The note indicate that the physician would prescribe the medication clobetasol and update the dermatology referral. There is no evidence that petitioner was seen by a dermatologist after that or that she is using the prescribed medication. It may be that petitioner needs a caregiver to assist with applying a topical medication but supporting medical evidence in the Plan of Care and the PCST is needed as a basis for ordering that.

[REDACTED] noted that in the past petitioner has received more PCW hours that are approved in this instance. The agency presented evidence that petitioner received more services in 2015 through 2018, when no clinical

review was done. Since 2019, clinical review has been done annually and she has been approved for 88 units per week. Past approval based on a paper review is not a sound basis for approving services when the clinical review does not document the need. Perhaps the services were approved in error in the past, which is no basis for approving them now.

The agency presented evidence to show that it correctly approved with modification the PA request for PCW assistance. The additional services requested were not shown to be medically necessary to maintain the recipient in his or her place of residence in the community.

CONCLUSIONS OF LAW

The DMS correctly approved the petitioner's PA request with modification because the petitioner did not present evidence to show that additional services requested were medically necessary.

THEREFORE, it is

ORDERED

That the petition for review is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

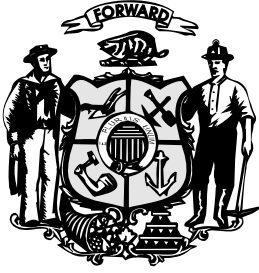
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 12th day of January, 2023

\s 

Beth Whitaker
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 12, 2023.

Division of Medicaid Services